

Claimant alleged and testified that he began experiencing symptoms, later diagnosed as bilateral carpal tunnel, in the course of his employment with respondent in June of 1990. According to claimant he called his employer in June, while on a trip on the east coast, and told Mr. Ball that his arms and hands were hurting him. Claimant testified Mr. Ball told him he could see a physician there or wait until he returned to Kansas. Claimant waited until he returned home and saw his family physician on June 27, 1990. Claimant also testified he told respondent again after his first visit to the physician about the problems he was having with his hands.

Respondent's witness, Carrol Ball, acknowledged that claimant called him from a trip and advised him that he was having a problem with his hands when he laid them on the steering wheel. Mr. Ball acknowledged he told claimant to go to a doctor and he acknowledged that respondent paid for that visit. Mr. Ball insisted, however, that he was not aware the condition was considered work related. He claimed he first became aware it was work related on July 11, 1990. Claimant continued to work through July 20, 1990. In accordance with the recent decision by the Kansas Court of Appeals in Berry v. Boeing Military Airplanes, No. 71,001 (Dec. 1994) the date of accident for carpal tunnel condition is to be considered the last day at work. The date of accident for claimant's injury was, therefore, July 20, 1990, and, by respondent's own testimony, respondent had received notice prior to July 20.

(2) Claimant has established by a preponderance of credible evidence that his injury arose out of and in the course of his employment. Claimant gives a history of aggravation and increased symptoms in his hand from work activities in the course of his employment for the respondent. Dr. Aves, a treating physician, expressed in his opinion, by a letter dated July 25, 1994, that claimant has problems in both wrists, probably related to work. The Appeals Board finds that the evidence does satisfy claimant's burden.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the October 6, 1994, Order entered by Administrative Law Judge Steven J. Howard, should be, and same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Bruce Mayfield, Overland Park, KS
Gary R. Terrill, Overland Park, Ks
Steven J. Howard, Administrative Law Judge
George Gomez, Director